

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.	:	10/082,326	Confirmation No.	3456
Applicant	:	I. URATANI et al		
Filed	:	February 26, 2002		
Title	:	STORAGE SYSTEM		
TC/AU	:	2141		
Examiner	:	K. D. Shingles		
Docket No.	:	NIT-332		
Customer No.:		24956		

Director of the U.S. Patent and Trademark Office
Mail Stop - Refund Request
P.O. Box 1450
Alexandria, VA 22313-1450

November 8, 2007

REQUEST FOR REFUND

Sir:

Applicants request a refund in the above-identified application due to an error on the part of the Patent Office.

On October 31, 2007, Applicants filed a Request for Continued Examination (RCE) under 37 CFR §1.114 and included therewith a Request for Suspension of Action under 37 CFR §1.103(c). A Request for Suspension of Action under 37 CFR 1.103(c) filed with an RCE requires the processing fee set forth in §1.17(i), as shown in the attached copy of page R-82 of the Manual of Patent Examining Procedure. The processing fee for a filing under §1.17(i) is \$130.00 according the Revised Fee Schedule effective September 30, 2007.

A payment of \$130 accompanied Applicants' Request for Suspension of Action as payment for the processing fee set forth in §1.17(i). However, Applicants'

U.S. Application No. 10/082,328
Request for Refund dated November 8, 2007

Docket No. NIT-332

representatives' Monthly Statement of Account for November, 2007 (copy enclosed) indicates an additional charge of \$70.00 in this application for filing a "petition" under §1.17(g) on November 1, 2007. A petition under §1.17(g) requires a \$200 fee, but Applicants respectfully note that a Request for Suspension of Action under 37 CFR §1.103(c) is not a "petition" and rule 103(c) clearly states that only the processing fee of \$130 set forth in §1.17(l) is required.

In view of the foregoing, Applicants submit that the additional charge of \$70.00 to Applicants' representatives' deposit account was improper, and Applicants respectfully request that the Office please credit a refund in the amount of \$70.00 to the Deposit Account No. 50-1417.

Respectfully submitted,


Colin D. Barnitz
Registration No. 35,061

MATTINGLY, STANGER, MALUR and BRUNDIDGE, P.C.
1800 Diagonal Rd., Suite 370
Alexandria, Virginia 22314
(703) 684-1120
Date: November 8, 2007

§ 1.103**MANUAL OF PATENT EXAMINING PROCEDURE**

(d) A petition to make an application special on grounds other than those referred to in paragraph (c) of this section must be accompanied by the fee set forth in § 1.17(h).

[24 FR 10332, Dec. 22, 1959; paras. (a), (c), and (d), 47 FR 41276, Sept. 17, 1982, effective Oct. 1, 1982; para. (d), 54 FR 6893, Feb. 15, 1989, effective Apr. 17, 1989; para. (d) revised, 60 FR 20195, Apr. 25, 1995, effective June 8, 1995; para. (a) revised, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (d) revised, 65 FR 54604, Sept. 8, 2000, effective Nov. 7, 2000; para. (a) revised, 68 FR 14332, Mar. 25, 2003, effective May 1, 2003; para. (c) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

§ 1.103 Suspension of action by the Office.

(a) *Suspension for cause.* On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph must specify a period of suspension not exceeding six months. Any petition for suspension of action under this paragraph must also include:

(1) A showing of good and sufficient cause for suspension of action; and

(2) The fee set forth in § 1.17(g), unless such cause is the fault of the Office.

(b) *Limited suspension of action in a continued prosecution application (CPA) filed under § 1.53(d).* On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph in a continued prosecution application filed under § 1.53(d) for a period not exceeding three months. Any request for suspension of action under this paragraph must be filed with the request for an application filed under § 1.53(d), specify the period of suspension, and include the processing fee set forth in § 1.17(l).

(c) *Limited suspension of action after a request for continued application (RCE) under § 1.114.* On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph after the filing of a request for continued examination in compliance with § 1.114 for a period not exceeding three months. Any request for suspension of action under this paragraph must be filed with the request for

continued examination under § 1.114, specify the period of suspension, and include the processing fee set forth in § 1.17(i).

(d) *Deferral of examination.* On request of the applicant, the Office may grant a deferral of examination under the conditions specified in this paragraph for a period not extending beyond three years from the earliest filing date for which a benefit is claimed under title 35, United States Code. A request for deferral of examination under this paragraph must include the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i). A request for deferral of examination under this paragraph will not be granted unless:

(1) The application is an original utility or plant application filed under § 1.53(b) or resulting from entry of an international application into the national stage after compliance with § 1.495;

(2) The applicant has not filed a nonpublication request under § 1.213(a), or has filed a request under § 1.213(b) to rescind a previously filed nonpublication request;

(3) The application is in condition for publication as provided in § 1.211(c); and

(4) The Office has not issued either an Office action under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151.

(e) *Notice of suspension on initiative of the Office.* The Office will notify applicant if the Office suspends action by the Office on an application on its own initiative.

(f) *Suspension of action for public safety or defense.* The Office may suspend action by the Office by order of the Director if the following conditions are met:

(1) The application is owned by the United States;

(2) Publication of the invention may be detrimental to the public safety or defense; and

(3) The appropriate department or agency requests such suspension.

(g) *Statutory invention registration.* The Office will suspend action by the Office for the entire pendency of an application if the Office has accepted a request to publish a statutory invention registration in the application, except for purposes relating to patent interference proceedings under part 41, subpart D, of this title.



**United States
Patent and
Trademark Office**

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Deposit Account Statement

Requested Statement Month: November 2007
Deposit Account Number: 501417
Name: MATTINGLY STANGER & MALUR, P.C.
Attention:
Street Address 1: 1800 DIAGONAL ROAD, SUITE 370
Street Address 2:
City: ALEXANDRIA
State: VA
Zip: 22314
Country: UNITED STATES

DATE SEQ	POSTING REF TXT	ATTORNEY DOCKET NBR	FEE CODE	AMT	BAL
11/01 205	09523760	501.38214X00	1463	\$70.00	\$22,943.00
11/01 17782	11867362		8021	\$40.00	\$22,903.00
11/01 287	11024626	TMI-5827-03	1463	\$70.00	\$22,833.00
11/01 310	10787112	TSM-35	1463	\$70.00	\$22,763.00
11/01 342	00042690	H-990	1463	\$70.00	\$22,693.00
11/01 329	10082326	NIT-332	1463	\$70.00	\$22,623.00
11/02 145	10196508	500.39908PX1	1501	\$40.00	\$22,583.00
11/02 3	10973298	NIT-441	1201	\$210.00	\$22,373.00
11/05 2	10896092	500.44085X00	1251	\$120.00	\$22,253.00
11/05 3	10896092	500.44085X00	1806	\$180.00	\$22,073.00
11/08 6	11905421	H-787-06	1081	\$260.00	\$21,813.00
11/06 1	10875281	H-1156	1201	\$630.00	\$21,183.00
11/07 48	11840042	KAS-5951	1111	\$510.00	\$20,673.00
11/07 49	11840042	KAS-5951	1311	\$210.00	\$20,463.00
11/08 3	09764073	500.39461X00	1201	-\$400.00	\$20,863.00
11/08 25	10687763	ASA-1003-02	1261	-\$120.00	\$20,983.00

START BALANCE	SUM OF CHARGES	SUM OF REPLENISH	END BALANCE
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11-08-'07 13:38 FROM-Mattingly, Stanger

703-684-1157

T-232 P001/005 F-808

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.

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AND COPYRIGHT LAW

FACSIMILE: (703) 684-1157

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November 8, 2007

FACSIMILE COVER LETTER

Facsimile Number: (571)273-6500

To: Commissioner for Patents
Attn: Latrice Sims

From : Mr. Colin D. Barnitz
MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.

Re: USSN 10/082,328
Attorney Docket No.: NIT-332

CERTIFICATION OF FACSIMILE TRANSMISSION

I hereby certify that the following listed documents are being facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below:

Request for Refund

Copy of page R-82 of Manual of Patent Examining Procedure

Copy of Deposit Account Statement (11/07)


Colin D. Barnitz
Reg. No. 35,061

November 8, 2007

Date

Total Number of Pages (including cover sheet): 5

If the facsimile you receive is incomplete or illegible, please CALL (703) 684-1120.
Thank you.



PTO/SB/30 (09-04)

Approved for use through 07/31/2008. OMB 0651-0031

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**Request
For
Continued Examination (RCE)
Transmittal**

Address to:
Mail Stop RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Application Number	10/082,326
Filing Date	February 26, 2002
First Named Inventor	I. URATANI et al.
Art Unit	2141
Examiner Name	K. D. Shingles
Attorney Docket Number	NIT-332

This is a Request for Continued Examination (RCE) under 37 C.F.R. § 1.114 of the above-identified application. Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to the USPTO) on page 2.

1. **Submission required under 37 C.F.R. § 1.114** Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).

- a. Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.
 - i. Consider the arguments in the Appeal Brief or Reply Brief previously filed on
 - ii. Other
- b. Enclosed
 - i. Amendment/Reply
 - ii. Affidavit(s)/Declaration(s)
 - iii. Information Disclosure Statement (IDS)
 - iv. Other

2. **Miscellaneous**

- a. Suspension of action on the above-identified application is requested under 37 C.F.R. § 1.103(c) for a period of 3 months. (Period of suspension shall not exceed 3 months; Fee under 37 C.F.R. § 1.17(i) required)
- b. Other

3. **Fees** The RCE fee under 37 C.F.R. § 1.17 (e) is required by 37 C.F.R. § 1.114 when RCE is filed.

- a. The Director is hereby authorized to charge the following fees, or credit any overpayments, to Deposit Account No. 50-1417.
 - i. RCE fee required under 37 C.F.R. § 1.17 (e)
 - ii. Extension of time fee (37 C.F.R. §§ 1.136 and 1.17)
 - iii. Other
- b. Check in the amount of \$ enclosed
- c. Payment by credit card (Form PTO-2038 enclosed)

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

Name (Print/Type)	John D. Bernitz	Registration No. (Attorney/Agent)	35,061
Signature		Date	October 31, 2007

CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

Name (Print/Type)		Date	
Signature			

This collection of information is required by 37 CFR 1.114. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete. Including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

11/01/2007 JADDO1 00000195 501417 10082326

Adjustment date: 12/06/2007 SDIRETA1	11/01/2007 JADDO1 00000195 501417 10082326	81 FC:1801 81 FC:1801 81 FC:1463 70.00 DA 130.00 OP
11/01/2007 JADDO1 00000195 501417 10082326	02 FC:1463 70.00 CR -130.00 OP	82 FC:1463 70.00 DA 130.00 OP
Adjustment Date: 12/06/2007 SDIRETA1	11/01/2007 JADDO1 00000195 501417 10082326	81 FC:1801 81 FC:1801 81 FC:1463 70.00 DA 130.00 OP
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130.00 OP
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